

**STATE OF INDIANA
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION**

IN THE MATTER OF)	
THE PERMIT OF)	
)	
SANNAH, INC.)	
d/b/a RIGHT STUFF)	
1321 NORTH FULTON AVENUE)	PERMIT NO. DL82-21983
EVANSVILLE, INDIANA 47710)	

**ORDER REMANDING CASE TO LOCAL BOARD
FOR REHEARING AND FURTHER INVESTIGATION**

I. Background of the Case

The Applicant, Sannah, Inc. d/b/a Right Stuff, 1321 North Fulton Avenue, Evansville, Indiana 47710 (“Applicant”), submitted its application for a Type 115 Permit (the “Permit”) on or about August 23, 2005. The Vanderburgh County Local Alcoholic Beverage Board (“Local Board”) conducted a hearing on December 27, 2005. The Local Board took the matter under advisement; and, on January 10, 2006, the Local Board voted three (3) to one (1) to deny the application. The Alcohol and Tobacco Commission (“Commission”) overturned the recommendation of the Local Board on February 7, 2006. The Applicant timely appealed the Commission’s decision and the matter was assigned to the Hearing Judge U-Jung Choe (“Hearing Judge”). The matter was set for hearing on October 17, 2006, and that time, witnesses were sworn, evidence was heard, and the matter was taken under advisement. Having been duly advised of the facts and law at issue, the Hearing Judge now tenders her recommendation for consideration by the Commission.

II. Findings and Conclusions Pertinent to Remand

From the review of the tape-recorded transcript of the Local Board hearing (“LB Hearing”), the evidence submitted to the Commission during the appeal hearing (“ATC

Hearing”), and contents of the entire Commission file (“ATC File”), certain facts pertinent to the disposition of the appeal were discovered as follows:

1. The Local Board denied Applicant’s application based on (i) 905 IAC 1-27-4(a) – no need for such services at the location; (ii) 905 IAC 1-27-4(b) – no desire of the neighborhood to receive such services; (iii) 905 IAC 1-27-4(c) – negative impact on other businesses in the neighborhood; and, (iv) negative impact on the neighborhood or community.
2. Evidence presented at the LB Hearing, the evidence submitted to the Commission during the ATC Hearing, and the ATC File is ambiguous and contradictory with respect to need and desire in the community.
3. The circumstances warrant remand for further proceedings in order to give the Local Board an opportunity to further explore the issue of need and desire in the community.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the application of Sannah, Inc. d/b/a Right Stuff, 1321 North Fulton Avenue, Evansville, Indiana 47710, No. DL82-21983, is hereby remanded to the Local Board for rehearing and upon completion of its investigation and rehearing on this case, the Local Board is to make its recommendation to the Commission whether to approve or deny the application.

Dated: _____

U-Jung Choe
Hearing Judge

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